

sustained by the owner of the land, which said jury, after being duly sworn to impartially assess the damages, shall forthwith proceed to assess the same and make their report to the said commissioners. That said jury, in considering the question of damages, shall take into consideration the special benefits to the owner of the lands by such road or change of the same, and if the said special benefits be equal to the damages sustained the jury shall so declare; but if the damage exceeds the special benefits, they shall declare the amounts thereof. The officer making the service shall serve a copy of the summons on each freeholder summoned as juror. The damages, if any are awarded, shall be paid out of the road funds of the county by order of the road commissioners of said county. In case either party interested be dissatisfied with the finding of the jurors, such party may appeal to the superior court of Madison County, without bond, but the judge may, in his discretion, require either party to give bond after the appeal is docketed in the superior court. Said road commissioners or their foreman or supervisor shall have the right to enter upon the lands of any person and proceed to lay out any road or roads, doing as little damage as possible to said lands or premises. Said roads not to exceed twenty-four feet in width.

Right of appeal.

Entry on land.

Width of road.

Cartways.

Proviso: assessment of damages.

Cartways by prescription.

Acts declared misdemeanor.

Punishment.

SEC. 4. The board of road commissioners shall have the right to lay out establish and discontinue cartways: *Provided*, that in laying out and establishing said cartways, and for the purpose of assessing damages to property by reason of the same; no greater number of jurors than three shall be summoned or required, said jurors to be disinterested parties: *Provided, however*, that either party may appeal from the decision of the board of road commissioners. All cartways or private road having been in continuous use for a period of ten years are hereby established as lawful cartways. All lawful cartways shall be kept open and free from obstructions to travel except that at land line crossings it shall be lawful to erect at said land line crossings gates, constructed in such manner that they may be conveniently opened and closed and any gate so erected shall be kept in good repair by the person erecting such gate. Any person obstructing any cartways as herein provided for by felling trees across same or in any other way so as to make traveling over same inconvenient, or any person who shall willfully leave open any gate erected as herein provided for shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding ten dollars or imprisonment not exceeding ten days or both, in the discretion of the court.

SEC. 5. That this act shall be in force from and after its ratification.

Ratified this the 4th day of March, 1911.